

## **MINUTES**

### **TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING RUTH NEFF CONFERENCE ROOM 17<sup>TH</sup> FLOOR, L & C TOWER NASHVILLE, TENNESSEE**

**DECEMBER 3, 2002**

#### **Board Members Present:**

Mr. Wilton Burnett  
Ms. Janet Evans  
Dr. Dennis George  
Mr. Sizwe Herring  
Mr. Joe Mahan  
Mr. J. P. Newman, Chairman  
Mr. Ken Pointer  
Mr. Robert Waddell  
Mr. David Wallace  
Mr. Glenn Youngblood  
Mr. Bob Whetsel

#### **Board Members Absent:**

All Board members were present.

Chairman Newman called the meeting to order at 9:02 a.m. After noting that a quorum was present, he welcomed Mr. David Wallace and introduced him to the board and attendees.

**I. SOLID WASTE DISPOSAL CONTROL BOARD MATTERS**

**A. Approval of Minutes from the October 1, 2002 Board Meeting**

Chairman Newman asked if the Board members had reviewed the Draft Minutes from the October 1, 2002 Board Meeting. Mr. Newman had a question on page eight of the minutes. There were numbers listed, 01 and 30. He asked if this represented the month and year. Mr. Apple confirmed that they were budget codes. The Commissioner's office is 01 and 30 is the Administration Budget. A **motion** was made by Dr. George and **seconded** by Ms. Evans, **to approve the Minutes from the October 1, 2002 Board Meeting. The motion carried unanimously by voice vote.**

**II. REGULATORY MATTERS**

**A. Proposal to List Vance Tank Road Battery Site (#82-544/Sullivan County) on the List of Inactive Hazardous Substances Sites**

Mr. Bob Powell, Enforcement Manager for the Division of Superfund provided Board members an overview regarding the Vance Tank Road Battery Site. He stated that a public hearing was held on October 17, 2002 at the Sullivan County Courthouse to receive comments from the public regarding this rulemaking. There were no attendees at the meeting, and no formal comments were received. The Vance Tank Road Battery site is proposed for listing because the site is no longer active; hazardous substances are present; and the site may pose a threat to public health and the environment.

After review and discussion by the Board, a **motion** was made by Dr. George and **seconded** by Ms. Evans, to **List Vance Tank Road Battery Site (#82-544/Sullivan County) on the List of Inactive Hazardous Substances Sites**. There was no further discussion, and the **motion carried unanimously by a roll call vote**. The vote was as follows:

<b>Burnett</b>	<b>Yes</b>	<b>Evans</b>	<b>Yes</b>
<b>George</b>	<b>Yes</b>	<b>Herring</b>	<b>Yes</b>
<b>Mahan</b>	<b>Yes</b>	<b>Newman</b>	<b>Yes</b>
<b>Pointer</b>	<b>Yes</b>	<b>Waddell</b>	<b>Yes</b>
<b>Wallace</b>	<b>Yes</b>	<b>Whetsel</b>	<b>Yes</b>
<b>Youngblood</b>	<b>Yes</b>		

**B. Request to Schedule Public Hearing for Proposed Solid Waste Regulation Revision “p” Amendments**

Mr. Greg Luke, with the Solid Waste Program provided Board members an overview of the proposed changes for Revision “p” of the Solid Waste Management Rules 1200-1-7. Thirteen amendments are proposed. These changes are based on updating the regulations so that they will be in accordance with the legislative changes as published in the June-July T.C.A. These housekeeping requests were made by the OGC to bring the Solid and Hazardous Waste Program financial assurance requirements into agreement.

Ms. Evans suggested that the financial assurance anniversary date on page 4 be reevaluated. The text reads “60 days prior to the anniversary date..”. Ms. Evans suggested that instead of saying 60 days, a date be inserted, such as April 1<sup>st</sup>. Mr. Luke said he would pass it on to O. J. Wingfield, manager of the financial responsibility section. Dr. George had a question on page 3. The text reads “A person shall give public notice...”. Dr. George questioned the usage of the word “person”.

Mr. Ingram said that he would address the language during the other business portion of the meeting. Dr. George suggested that if it is defined in the rules, a cross reference should be listed. Mr. Luke acknowledged that and made note. Mr. Pointer asked when the hearing would take place. Mr. Luke said that the hearing would be February 19, 2003.

After review and discussion by the Board, a **motion** was made by Ms. Evans and **seconded** by Dr. George, to **schedule public hearing for proposed Solid Waste Regulation Revision “p” Amendments.**

### **III. AGREED/CONSENT ORDERS**

#### **A. Charles N. Griffith SWM Case #01-0754/Humphreys County**

Mr. Max Fleischer, Assistant General Counsel for the Department, distributed copies of his summary, the original Director’s Order and the proposed Agreed Order to the Board members for their review.

The summary stated that the Director of the Division of Solid Waste Management issued the Director’s Order. The Respondent was directed to clean up the site located on Hwy 13. The Division identified the site as a solid waste disposal site as a result of an investigation that revealed construction/demolition debris, tires, a truck-mounted camper and brush had been disposed of at the site. Subsequent inspections of the site revealed some removal of the waste but also revealed that the Respondent had not removed all the waste from his property and not effectively limited access to persons dumping at the site.

The Order and Assessment in this case required removal of the waste at the site and assessed damages of \$607.07. The Order also assessed civil penalties of \$10,000.00 dollars, which were required to be paid within one

hundred eighty days of the Respondent's receipt of the Order unless the Respondent demonstrated to the satisfaction of the Division that the site had been cleaned up. The Respondent appealed the Director's order.

The Agreed Order provides for the removal of the waste located on the site and for the restriction of access to that portion of the site by the installation of substantial fencing and a gate to restrict access. To further restrict access to the site, Respondent would be required by the Agreed Order to construct a ditch three feet wide and two to three feet deep. The Agreed Order would require completion of these activities by December 10, 2002. The Agreed Order would furthermore require the filing of a Notice of Land Use Restrictions by December 20, 2002 which would require the maintenance of the fencing and the ditch so that they effectively restrict access to the site. The Agreed Order would require the removal of material on the sloped area of the site by April 1, 2003. The Agreed Order would require payment of the civil penalties and damages of \$10,750.00 to be paid within two hundred ten days unless Respondent demonstrates to the Division that he has complied with every term of the Agreed Order.

After review and discussion a **motion** was made by Ms. Evans, and **seconded** by Mr. Waddell, **to approve the proposed Agreed Order**. There were three votes **against** the motion: Mr. Herring, Dr. George and Mr. Newman. **The motion carried by voice vote.**

## **II. OTHER BUSINESS**

Mr. Jerry Ingram, Manager, Program Development Section for the Division of Solid Waste Management's (DSWM) Hazardous Waste Program notified the Board that Revision "v-1" became effective on

October 8, 2002. It was presented to the GOC and there were no questions regarding the revision, however representative Mike Kurnell paid the Division and the Board, the whole process a compliment. He made the remark that the processes that we go through and how we get people involved is widely known, respected and greatly appreciated.

Mr. Ingram distributed copies of the Policy Fee Collection for Oversight of Spill or Accidental Discharge of Hazardous Waste, Hazardous Waste TSDF Fee Determination Sheet, Hazardous Waste Generator Fee Determination/Summary Sheet, Incident Response Report, Initial Spill and/or Accidental Discharge Investigation Fee Sheet, and the Annual Hazardous Waste Report Penalty Policy which he provided a brief summary of each form

After review and discussion a **motion** was made by Mr. Whetsel, and **seconded** by Ms. Evans, **to approve the Policy Fee Collection for Oversight of Spill or Accidental Discharge of Hazardous Waste. The motion carried by voice vote.**

After review and discussion a **motion** was made by Dr. George, and **seconded** by Mr. Mahan, **to approve Annual Hazardous Waste Report Penalty Policy. The motion carried by voice vote.**

Mr. Ingram stated that the annual reports should be more simplified and changes can be made during the year. A sample printout of the annual reports will be printed December 4, 2002. A rulemaking hearing was held November 19, 2002 for Revision “w” of the Hazardous Waste Rules. Two people attended and provided comments. The target date for adoption consideration of Revision “w” is the February 2003 meeting. Mr. Ingram also reviewed the response and comments received regarding Revision “w”.

Chairman Newman wants to issue a policy to have the inspectors appear before the board in an Agreed Order case and have Mr. Apple comment towards the Divisions standpoint on the Agreed Order. Mr. Apple agreed to have representation present.

Mr. Apple provided a brief overview regarding Brownfield activity, RCRA closures, EPA recognizing State programs, and the Solid Waste Conference. Tommy Himes will be handling the Solid Waste Conference and other events. In a proposed pilot program, inspections will be conducted using hand held computers and then downloaded in our office.

**There was no further business by the Board or staff; a Motion was made by Dr. George to Adjourn at 11:29 a.m. on Tuesday, December 3, 2002.**

**SUBMITTED BY:**

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**Mike Apple, Technical Secretary**

\_\_\_\_\_  
**Date**

**APPROVED BY:**

\_\_\_\_\_  
**J.P. Newman, Chairman  
Solid Waste Disposal Control Board**

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**Date**